

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

IN RE:	:	CHAPTER 13
DANA A. VALLEY	:	
LORIE A. VALLEY	:	
	:	CASE 1:18-BK-968-HWV

**OBJECTIONS BY NEW CUMBERLAND FEDERAL CREDIT UNION  
TO CHAPTER 13 PLAN**

TO THIS HONORABLE COURT:

1. Objecting Creditor, the New Cumberland Federal Credit Union (NCFCU), is a secured creditor holding a valid security interest in a vehicle loan with a payoff as of May 7, 2018 of **\$6,878.02** for a 2007 KIA SEDONA. Objecting Creditor incorporates by reference the Proof of Claim filed in this matter as though fully set forth.
2. The vehicle loan requires a regular monthly payment of **\$230.61** and Debtor is delinquent **\$594.60** as of May 7, 2018.
3. The Chapter 13 Plan provides no adequate protection payments to the Credit Union and as written the Credit Union would need to wait nearly twenty (20) months before receiving anything towards its secured loan.
4. The vehicle will depreciate during this time and presently has a value of **\$5,756.00**. See Kelley Blue Book average of Private Party Sale and Trade in Value attached as Exhibit "A".

**Plan Provides No Adequate Protection Payments**

5. The law regarding an "equity cushion" can be summarized as follows. *In re Hefty*, 2011 WL 2470686 (Bankr. D. Mont. 2011) (holding that a 38% equity cushion in collateral provided adequate protection for a secured

claim); *In re Las Torres Development, L.L.C.*, 413 B.R. 687, 697, 52 Bankr. Ct. Dec. (CRR) 31, 62 Collier Bankr. Cas. 2d (MB) 842 (Bankr. S.D. Tex. 2009); *Suntrust Bank v. Den-Mark Const., Inc.*, 406 B.R. 683, 700 n.24, 63 A.L.R. Fed. 2d 757 (E.D. N.C. 2009) (explaining that a 20% or higher equity cushion almost always was found to constitute adequate protection (citing *In re James River Associates*, 148 B.R. 790, 796 (E.D. Va. 1992)). Compare *SunTrust Bank*, 406 B.R. at 700 n.24 (explaining that 11% or lower equity cushion has almost always been found not to constitute adequate protection, and courts have been divided on whether an equity cushion between 11% and 20% constituted adequate protection).

6. A threatened decline in the value of a creditor's collateral entitling the creditor to adequate protection can occur, for example, from lack of insurance, failure to maintain the collateral, or a failure to permit periodic inspections. See *In re Young*, 2011 WL 3799245, at 7 (Bankr. D. N.M. 2011) (citations omitted) and *In re Young*, 2011 Bankr. LEXIS 3300, at 22–23. A decline in value of collateral can occur in a number of ways. As stated by the court in *In re Young*: “A decline in the value of the estate's interest in property that is the creditor's collateral, which entitles the creditor to adequate protection, can result from such causes as a decline in the market value of the collateral, non-payment of interest accruing on a senior lien, or non-payment of property taxes having priority over the creditor's lien.” Emphasis added.

7. The Credit Union is entitled to at least a 20% equity cushion of \$1,200.00 against the FMV of the vehicle that is \$5,756.00 when it is secured by \$6,878.02 in secured claims.
8. The adequate protection payments should total no less than \$1,200.00.
9. **WHEREFORE**, Objecting Creditor respectfully requests this Honorable Court to deny confirmation of the Chapter 13 Plan.

Respectfully submitted,  
BY: /s/ Steven Howell, Esquire  
Steven Howell, Esquire  
Howell Law Firm  
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(717) 770-1278 Fax  
Email HwllStvn@aol.com  
Supreme Court ID 62063

### **CERTIFICATE OF SERVICE**

I hereby certify that on the date set forth below a true and correct copy of the foregoing documents was served by postage prepaid, first class United States Mail on all interested parties or counsel of record at the addresses set forth below (unless otherwise designated as service by e-mail).

Stephen Wade Parker, Esquire (Debtor's Counsel) (ECF Notification)  
Mooney & Associates  
230 York Street  
Hanover, PA 17331  
Email: Mooneybkecf@gmail.com

Charles J. Dehart, Esquire (ECF Notification)  
Chapter 13 Trustee  
Suite A, 8125 Adams Drive  
Hummelstown, PA 17036  
Email: dehartstaff@pamd13trustee.com

BY: /s/ Steven Howell, Esquire

Date: May 11, 2018

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## 2007 Kia Sedona Pricing Report



Style: EX Minivan 4D  
Mileage: 87,600

Trade In To a Dealer

Trade-in Range  
**\$3,058 - \$4,393**  
Trade-in Value  
**\$3,726**



### Vehicle Highlights

Fuel Economy: City 16/Hwy 23/Comb 19 MPG	Max Seating: 7
Doors: 4	Engine: V6, 3.8 Liter
Drivetrain: FWD	Transmission: Automatic
EPA Class: Minivan	Body Style: Van
Country of Origin: Korea	Country of Assembly: Korea

Valid for ZIP Code 17070 through 05/10/2018

### Your Configured Options

Our pre-selected options, based on typical equipment for this car.

✓ Options that you added while configuring this car.

#### Engine

V6, 3.8 Liter

#### Transmission

Automatic

#### Drivetrain

FWD

#### Braking and Traction

Traction Control

Stability Control

ABS (4-Wheel)

#### Comfort and Convenience

Air Conditioning

Air Conditioning, Rear

Power Windows

Power Door Locks

Cruise Control

#### Steering

Power Steering

Tilt Wheel

#### Entertainment and Instrumentation

AM/FM Stereo

Cassette

CD/MP3 (Single Disc)

#### Safety and Security

Dual Air Bags

Side Air Bags

#### Seats

Dual Power Seats

✓ Leather

#### Roof and Glass

✓ Sun Roof (Sliding)

Privacy Glass

#### Exterior

Power Sliding Doors

#### Cargo and Towing

✓ Roof Rack

#### Wheels and Tires

Alloy Wheels

#### Exterior Color

✓ Blue

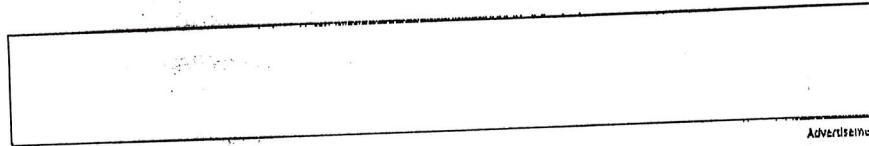
### Glossary of Terms

Tip:  
It's crucial to know your car's true



<https://www.kbb.com/kia/sedona/2007/ex-minivan-4d/?vehicleid=166854&intent=trade-in-s> 5/7/2018





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## 2007 Kia Sedona Pricing Report



Style: EX Minivan 4D  
Mileage: 87,600

Sell To Private Party

Private Party Range  
**\$4,599 - \$7,120**  
Private Party Value  
**\$5,860**



### Vehicle Highlights

Fuel Economy: City 16/Hwy 23/Comb 19 MPG	Max Seating: 7
Doors: 4	Engine: V6, 3.8 Liter
Drivetrain: FWD	Transmission: Automatic
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Country of Origin: Korea	Country of Assembly: Korea

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#### Cargo and Towing

✓ Roof Rack

#### Wheels and Tires

Alloy Wheels

#### Exterior Color

✓ Blue

### Glossary of Terms

Tip:

It's crucial to know your car's true condition when you sell it, so that you